

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of E. C. Leuthardt
Serial No.: 10/735,474
Confirmation No. 2473
Filed: December 12, 2003
Entitled: BRAIN COMPUTER INTERFACE

Group Art Unit 3736
Examiner: P. Mallari

DECLARATION UNDER 37 C.F.R. § 1.131

I, Eric C. Leuthardt, declare and state as follows:

1. I am a co-inventor of the subject matter claimed in U.S. Patent Application 10/735,474 entitled, "BRAIN COMPUTER INTERFACE," which was filed December 12, 2003.
2. U.S. Patent Application Publication No. US 2005/0113744 A1 was cited against claims of the subject application in an Office Action dated July 11, 2005. U.S. Patent Application Publication No. US 2005/0113744 A1 has a priority date of November 21, 2003, which is twenty days before the priority date of the subject application.
3. Attached as Exhibit A is a copy of my laboratory notes dated March 7, 2003 showing results for a Screening Protocol conducted with subject JJ using the Brain Computer Interface of the subject patent application.
4. Attached as Exhibit B is a copy of my laboratory notes dated May 21, 2003 showing results for a Screening Protocol conducted with subject DW using the Brain Computer Interface of the subject patent application.
5. Based on the attached exhibits, it is evident I and my co-inventors constructively reduced to practice the invention recited in the claims of the subject application before the priority date of U.S. Patent Application Publication No. US 2005/0113744 A1 and diligently pursued filing U.S. Patent Application 10/735,474 during a period of time beginning before the priority date of U.S. Patent Application Publication No. US 2005/0113744 A1 and lasting at least until the filing date of Application Ser. No U.S. Patent Application 10/735,474 .

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4. I hereby declare that the statements made of my own knowledge are true and that all statements made on information or belief are believed to be true. I acknowledge that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. § 1001) and may jeopardize the validity of this application or any patent issuing therefrom.

Date:

11/10/05
Eric C. Leuthardt, M.D.